

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

GEOFFREY EMANUEL THOMAS,

Petitioner,

CIVIL ACTION NO. 04-71979

vs.

DISTRICT JUDGE PAUL BORMAN

ANDREW JACKSON

Respondent.

**ORDER (1) DENYING A CERTIFICATE OF APPEALABILITY, AND (2) DENYING
MOTION TO PROCEED *IN FORMA PAUPERIS***

Petitioner filed a notice of appeal pursuant to 28 U.S.C. § 2255. In order to appeal the court's decision under § 2255, a certificate of appealability ("COA") must issue. *See* 28 U.S.C. § 2253(c)(1). Petitioner filed a Motion for Certificate of Appealability and Motion to Proceed *In Forma Pauperis* on December 29, 2005.

In the Court's December 1, 2005 Order denying Petitioner's Habeas Corpus petition, the Court explicitly declined to issue a certificate of appealability on any of Petitioner's claims:

The Court declines to issue a certificate of appealability on claims I, II, and IV, because reasonable jurists would not find the Court's assessment of the constitutional claims debatable or wrong. *Slack v. McDaniel*, 529 U.S. 473, 484, 120 S. Ct. 1595, 146 L. Ed. 2d 542 (2000). The Court declines to issue a certificate of appealability on claim III because reasonable jurists would not find it debatable whether the petition states a valid claim of the denial of a constitutional right and whether the Court's procedural ruling was correct. *Id.*

(Dec. 1, 2005 Order Denying Habeas Corpus Petition, 19) (Docket Entry 26). Thus, Petitioner's Motion for Certificate of Appeal ability is without merit.

Furthermore, Petitioner's Motion to Proceed *In Forma Pauperis* is likewise

meritless because the appeal would be frivolous. *See Hence v. Smith*, 49 F. Supp. 2d 547, 549 (E.D. Mich. 1999).

Accordingly, **IT IS ORDERED** that Petitioner's Motion for Certificate of Appealability is DENIED;

IT IS FURTHER ORDERED that Petitioner's Motion to Proceed *In Forma Pauperis* is DENIED.

—
s/Paul D. Borman _____

PAUL D. BORMAN
UNITED STATES DISTRICT JUDGE

Dated: February 1, 2006

CERTIFICATE OF SERVICE

Copies of this Order were served on the attorneys of record by electronic means or U.S. Mail on February 1, 2006.

s/Jonie Parker _____

Case Manager